

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Mr. Kevin Bryant # 343324

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

(Please see attachment)
(#9) Ass. Warden Early et al.,

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Complaint for Violation of Civil Rights

(Prisoner Complaint)

Case No. _____
(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No
(check one)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

When submitted for filing, your complaint should be accompanied by the full filing fee or an application to proceed in *forma pauperis*.

Defendant(s)

- #1. Lt. Waldrop
- #2. Lt. Borem
- #3. Sgt. Freeman
- #4. Sgt. Chandler
- #5. Sgt. Boccabello
- #6. Lt. Burzinski
- #7. Nurse Potts
- #8. Mental Health Ms. Harper
- #9. Ass. Warden Early
- #10. Deputy Warden Palmer
- #11. Ms. Labrador, Mental Health Director
- #12. Ms. Wyant, Mental Health
- #13. Lt B. Blakeley

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Mr. Kevin Bryant

All other names by which you have been known:

#343324

ID Number

Current Institution

Perry Institution (Delta #45)

Address

430 Oaklawn Rd.Pelzer, S.C. 29669**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

(Please see attachment)Job or Title
(if known)et. al.,

Shield Number

Employer

Address

☐ Individual capacity☐ Official capacity

Defendant No. 2

Name

(see attachment) et. al.,

The Defendants

#1.) Lt. Waldrop

Perry Institutional Correctional officer
Perry Correctional Institution, 430 Oaklawn Rd.
Pelzer, S.C. 29669

☒ Individual Capacity ☒ Official Capacity

#2.) Lt. Borem

Perry Institutional Correctional officer
Perry Correctional Institution
430 Oaklawn Rd.
Pelzer, S.C. 29669

☒ Individual Capacity ☒ Official Capacity

#3.) Sgt. Freeman

Perry Institutional Correctional officer
Perry Correctional Institution
430 Oaklawn Rd.

Pelzer, S.C. 29669 ☒ Individual Capacity ☒ Official Capacity

#4.) Sgt. Chandler

Perry Correctional Officer
Perry Correctional Institution
430 Oaklawn Rd.
Pelzer, S.C. 29669

☒ Individual Capacity ☒ Official capacity

#5.) Sgt. Boccabello

Perry Correctional Officer
Perry Correctional Institution
430 Oaklawn Rd.
Pelzer, S.C. 29669

☒ Individual Capacity ☒ Official Capacity

The Defendants

- #6.) Lt. Burzinski
Perry Correctional Officer
Perry Correctional Institution
430 Oaklawn Rd.
Pelzer, S.C. 29669
✗ Individual Capacity ✗ official Capacity
- #7.) Nurse Potts
Perry Correctional Nursing staff
Perry Correctional Institution
430 Oaklawn Rd. Pelzer, S.C. 29669
✗ Individual Capacity ✗ official Capacity
- #8.) Mental Health officer Ms. Harper
Perry Correctional Mental Health worker
Perry Correctional Institution
430 Oaklawn Rd.
Pelzer, S.C. 29669
✗ Individual Capacity ✗ official Capacity
- #9.) Ass. Warden Early
Ass. Warden of Perry Correctional Institution
Perry Correctional Institution
430 Oaklawn Rd.
Pelzer, S.C. 29669
✗ Individual Capacity ✗ official Capacity
- #10.) Deputy Warden Palmer
Deputy Warden of RHT Perry Correctional Institution
Perry Correctional Institution
430 Oaklawn Rd.
Pelzer, S.C. 29669
✗ Individual Capacity ✗ official Capacity
- #11.) Ms. Labrador,
Mental Health Director
SCDC Headquarters
4343 Broadriver Rd.
Columbia, S.C. 29201
✗ Individual Capacity ✗ official Capacity

The Defendants

#12.) Ms. Wyant
Perry Correctional Mental Health Worker
Perry Correctional Institution
430 Oaklawn Rd.
Pelzer, S.C 29669
☒ Individual Capacity ☒ Official Capacity

#13.) Lt B. Blakley
Perry Correctional Officer
Perry Correctional Institution
430 Oaklawn Rd.
Pelzer, S.C 29669
☒ Individual Capacity ☒ Official Capacity

Job or Title
(if known)

(see attachment)

Shield Number

Employer

Address

☐ Individual capacity

☐ Official capacity

Defendant No. 3

Name

(see attachment)

Job or Title
(if known)

Shield Number

Employer

Address

☐ Individual capacity

☐ Official capacity

Defendant No. 4

Name

(see attachment)

Job or Title
(if known)

Shield Number

Employer

Address

☐ Individual capacity

☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☒ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

The state has violated my U.S. Constitutional Rights
Amendment VIII and U.S. Universal Declaration of
Human Rights. Article(s) 5; 7; 12; 19; 25 and 27

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

my United States Constitutional Right amendment VIII,
Universal Declaration of Human Rights: Article(s) 5;
7; 12; 19; 25; and also article 27

D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

(see attachment)

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee

- ☒ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

N/A

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

On 9/23/21 at Perry Correctional
Institution 430 Oaklawn Rd.
Pelzer, S.C. 29669

- C. What date and approximate time did the events giving rise to your claim(s) occur?

On 9/23/21 at approximately 3:30 pm
(see attachments)

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

(Please see attachments and
supporting documentation)

Facts

- D.) 1. I am Kevin Bryant #343324, and I am a inmate with the South Carolina Department of Corrections
2. I am housed at Perry Correctional Institution, where these events took place.
3. I am a mental health patient; who suffers from bipolar disorder and schizophrenia.
4. (Please see ~~accompanied~~ attachments/ documents.)
5. Whilst incarcerated at Perry Institution, I Kevin Bryant #343324 have, countless times, asked Correctional officers and mental health Counselors for help with existing mental health Problems.
6. Within a two month span of time (8-22-21 to 10-3-21) have wrote staff request to mental personnel and correctional staff/ doctors asking for help and detailing my mental health Problems.
7. All answers to my request for mental health treatment, were falsified; and treatment was withheld by counselors and treatment staff. As I also made this widely known to staff and mental health officials.. (Please see supporting documentation attachments)

8. On 8/22/21 I, Kevin Bryant #343324, wrote an staff request to mental Health Ms. Wyant; making her aware of my mental health state of mind. In response, ms. Wyant stated I would be provided with an mental health assessment soon.
9. I Kevin Bryant #343324 went without mental health treatment for weeks afterwards. Thus I wrote mental Health Director Mrs. Labrador on 9-8-2021; also making her aware of my mental health condition, and also my attempts to gain mental health treatment. Mrs. Labrador responded by way of my staff request that she had asked Perry mental health staff to schedule me an psychiatrist appointment to address my symptoms.
10. On 9/23/21 at approximately 3:30p.m I Kevin Bryant #343324 had an psychotic episode within cell BZ-03 at Perry Correctional Institution. Where upon feces was upon my person and my cell. I was feeling suicidal and told this to the officers who approached my cell.
11. On 9/23/21 at 3:30p.m. Nurse Burgess, mental Health worker ms. Harper were told of Deputy warden Palmer Planned use of force and tactics to remove me from my cell. Nurse Burgess and also mental Health worker Harper did not voice any concerns, knowing that approaching officers in mass, intended to hog-tie me Kevin Bryant #343324.
12. On 9/23/21 mental health worker Ms. Harper told me not to resist any efforts of the numerous officers who were about to enter my cell (Please see supporting documents of attachments)

13. On 9/23/21 at approximately 3:33 p.m Lt. Waldrop,

Lt. Burzinski, Lt. Borem; ~~SGT~~ SGT. Chandler, SGT. Freeman, and SGT. Boccabello. Asked me to come to my cell door to be cuffed; and I complied without any resistance; as advised ~~by~~^{KB} by mental health Ms. Harper.

14. I was then horsed marched to cell BZ-01. Upon entering Cell BZ-01 I was then slammed on the floor by officers and pinned down by Officers; Lt. Waldrop, Lt. Burzinski, Sgt. Chandler, Sgt. Freeman, Sgt. Boccabello and then a chain was applied to my shackles and handcuffs (hog-tied style). The chain was applied so tight that my hands and knees were pulled to my chest tightly; and I was left on my back, screaming from the pain of the cuffs and shackles cutting into my ankles and wrist. As blood ran down my arm, the officers left me lying on my back.

15. On 9/23/21 at about 3:50 p.m Nurse Potts looked into my cell, and I told her my circulation was being cut off in my wrist and that I was bleeding from being cuffed to tightly; I also showed her the blood that was running down my arm. Lt Burzinski and nurse Potts left my door.

16. On the date of 9/23/21; I inmate Kevin Bryant# 343324 was ordered to be hog-tied (hard restraint) by deputy Warden Palmer. I was cuffed and then moved to Cell BZ-01, where I was slammed, kneed, and pinned down by Lt. Burzinski, Lt. Waldrop, Sgt. Freeman, Sgt. Chandler, Sgt. Boccabello and then hog-tied and left to suffer in pain; with cuts, and bruises, and also mental anguish. I was left like this for over an hour.

17. On 9/25/21 I wrote an grievance on this complaint, which still ~~as~~ yet to be answered.

18. On 9/25/21 I, Kevin Bryant #343324 also made Ms Harper aware of my physical and mental condition after I was assaulted by correctional officers and hog-tied. By way of staff request, she responded, saying "she has documented my concern and will forward to the Warden of Perry"

19. I also made aware Ms. Wyant on 9/27/21 (Please see attached supporting documents)

#20. I Kevin Bryant #343324 also made the assault known to Mrs. Labrador along with my mental health Condition. (Please see attached supporting documents)

21. On 10-03-21 I, Kevin Bryant #343324 wrote the Associate Warden Early about the physical treatment that the correctional officers subjected me to, and my continued struggles with my mental health. They replied that the matter was turned over to Police Services. Which as of yet no active investigation has taken place. (Please see attached supporting documentation)

22. On 9/23/21 Nurse Burgess, Mental health Ms. Harper and Lt. Borem (camera operator) witness the unconstitution and the violation of SCDC policy (use of excessive and unnessecary force) upon my Person. Other inmates on the wing heard this confrontation.

23. On 9/23/21 Lt B Blakeley wrote up A Incident Report that WAS not True AND He said on Tape At A "DHD Hearing" that I never Told him or Talked to him At All someone told him that so he wrote up A false 'hood Report which SCDC Official can not do. I have the Report AS Evidence In my Supporting documents]

24. each individual Involved in this Complaint, and labeled AS AM Defendant; acting under the Code and Color of the law; Showed Complete and deliberate indifference to my Kevin Bryant #343324 plight, and Physical and mental anguish.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I sustained cuts and bruises to my ankles, wrist and suffered reoccurring dreams of the incident for days after the incident. I was looked at through the window of cell BZ-01 door by Nurse potts and thats all the medical treatment I got. No matter the request and verbal request I submitted.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I would like each defendant to pay \$50,000 for their involvement in actual and punitive damages. For my physical pain and the mental anguish and suffering I went through; any other damages and rewards the court deems fit.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Perry Correctional Institution

430 Oaklawn Rd.

Pelzer, S.C. 29669

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

excessive force policy

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

E. If you did file a grievance:

1. Where did you file the grievance?

Perry Correctional Institution
430 Oaklawn Rd.
Pelzer, S.C 29669

2. What did you claim in your grievance?

That I was unconstitutionally assaulted
and hog-tied by several officers.

3. What was the result, if any?

The institution wouldn't answer my grievance
but; stated, "the referred it to "Police
Service division."
(See attachments)

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I've continued to inquire and ask
for assistance in this matter.
Please (see attachment of supporting
documentation)

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

I filed grievance but was told they were
forwarded to police service.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes
☒ No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) N/A

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition. N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes
☒ No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) N/A
Defendant(s)

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes
☐ No

If no, give the approximate date of disposition. N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: Dec 10, 2021

Signature of Plaintiff

Kevin Bryant

Printed Name of Plaintiff

Kevin Bryant

Prison Identification # 343324

Prison Address

Perry Corrections. 430 Oaklawn Rd.
Pelzer S.C. 29669

City

State

Zip Code

B. For Attorneys

Date of signing: _____, 20__.

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

Telephone Number

E-mail Address
